

FILED

4:22 P.M. Clock

AUG 20 2010

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI**

JEANNE HICKS, Clerk
BY Rita Storms
Deputy

FOR DIVISION 6

HON. WARREN R. DARROW

By: Diane Troxell, Judicial Assistant

CASE NUMBER: P1300CR20081339

Date: August 20, 2010

TITLE:

COUNSEL:

STATE OF ARIZONA

Joseph C. Butner III, Esq.
Jeffrey Paupore, Esq.
Deputy Yavapai County Attorneys

(Plaintiff)

(For Plaintiff)

vs.

STEVEN CARROLL DEMOCKER

John M. Sears, Esq.
107 N. Cortez St., Suite 104
Prescott, AZ 86301-3000

Larry A. Hammond, Esq.
Anne M. Chapman, Attorney at Law
OSBORN MALEDON, P.A.
2929 N. Central Ave., 21st Fl.
Phoenix, AZ 85012

(Defendant)

(For Defendant)

**UNDER ADVISEMENT RULING ON STATE'S MOTION FOR SANCTIONS;
ORDER SEALING RULING**

The Court has considered the State's motion, the response, and the arguments of counsel.

The Defendant does not dispute the State's contention that the written disclaimers were not disclosed. Rather, the defense maintains that proof of the disclaimers would not be based on any documents. This approach could raise hearsay concerns and issues under Rule 1002 of the Arizona Rules of Evidence. The Court concludes that the reference to a disclaimer during opening statements constituted a technical violation of Rules 15.2(c)(3) and 15.6 of the Arizona Rules of Criminal Procedure.

The Court concludes, however, that sanctions are not appropriate. As noted in the response, the State had knowledge, long before opening statements, of Defendant DeMocker's stated position with regard to the life insurance policies. Hartford Insurance was apparently cooperating with requests from the State for information, so the State could have obtained relevant information and documentation throughout the course of this litigation. Furthermore, the State did not fulfill its obligation under rule 15.6 to notify the Defendant that "additional disclosure may be forthcoming." If this issue had been

addressed in the manner prescribed by the disclosure provisions in the Rules of Criminal Procedure, costs associated with obtaining this material could have been avoided or reduced.

The Court concludes that admitting evidence relating to the material in question is not an appropriate sanction. This Court has ruled that evidence pertaining to the Hartford Insurance policies would be inadmissible, in large part, under Rules 403 and 404(b) of the Arizona Rules of Evidence.

For the reasons stated above,

IT IS ORDERED *denying* the motion for sanctions.

IT IS FURTHER ORDERED this ruling shall remain sealed until further order of the Court.

DATED this 20th day of August, 2010.


Warren R. Darrow
Superior Court Judge

cc: Victim Services Division
Division 6
Christopher DuPont, Esq., 245 W. Roosevelt, Ste. A., Phoenix, AZ 85003